IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 16136 of 2007(U)

PETITIONER:

PADMANABHAN V. MENON,
S/O.P.P.VISWANATHA MENON, RESIDING AT VISWAS,
MEENCHANDA, KOZHIKODE.

BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH

RESPONDENTS:

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1. **THE INSPECTOR GENERAL OF REGISTRATION,**
   OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION,
   VANCHIYOOR, THIRUVANANTHAPURAM.

2. **THE DISTRICT REGISTRAR (GENERAL),**
   OFFICE OF THE DISTRICT REGISTRAR,
   KOZHIKODE.

3. **THE SUB REGISTRAR,**
   MEENCHANDA SUB REGISTRY,
   KOZHIKODE.

BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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W.P.(C) NO.16136/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER OF THE 2ND RESPONDENT.

EXT.P2:- COPY OF THE REQUEST SEEKING TIME TO FILE OBJECTION.

EXT.P3:- COPY OF THE REQUEST FOR OBTAINING A COPY OF THE ORDER AS PROVIDED IN THE RIGHT TO INFORMATION ACT.

EXT.P3:- COPY OF THE REQUEST FOR OBTAINING A COPY OF THE ORDER AS PROVIDED IN THE RIGHT TO INFORMATION ACT.

EZXT.P4:- COPY OF THE COMMUNICATION RECEIVED FROM THE 1ST RESPONDENT.

EXT.P5:- COPY OF THE OBJECTION FILED BY THE PETITIONER .

EXT.P6:- COPY OF THE COMMUNICATION SEND BY THE 2ND RESPONDENT TO THE PETITIONER.

/TRUE COPY/

P.S. TO JUDGE

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ANTONY DOMINIC, J.

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W.P.(C) No. 16136 OF 2007 U
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Dated this the 4th October, 2007

J U D G M E N T

The petitioner and others had executed a partition deed in their family and it is the specific case of the petitioner that the parties thereto affixed their signature on 22-6-2006. However, the document was presented for registration only on 10-8-2006. With effect from 1-4-2006, the relevant entry in the Kerala Stamp Act was amended and as a result thereof, the stamp duty that was payable on the partition deed was only Rs.1,000/-. On this basis, the document was executed on the stamp paper for Rs.1,000/-. However, the above amendment introduced by an Ordinance had lapsed and consequently by the time the document was presented for registration, the old rate of stamp duty had reviewed. Going by that rate the stamp duty payable stood was Rs.27,290/-. In view of this, the 3rd respondent refused to register the document on the ground that the stamp duty paid was insufficient. That led to the filing of this writ petition in which the

petitioner seeks to quash Ext. P6 communication of the 2nd respondent and to direct registration of the partition deed.

2. The dispute that calls for resolution is as to what is the stamp duty that is payable by the petitioner. In this case, the petitioner positively avers that the document in question was signed by the executants on 22-6-2006. If that be so the rate of stamp duty that is relevant is that prevailing on that date irrespective of whether the document was presented for registration subsequently and whether any change has taken place in the rate.

3. This issue has been considered by this Court in ***State of Kerala v. George Jacob*** {2005 (4) KLT 709} in which it has been held that going by S. 17 of the Kerala Stamp Act, the rate of duty applicable to a particular document whether it is compulsorily registrable or not, would be the rate prevailing when the person executing the document signs the same, and not the rate when the document is presented for registration.

4. In this case, going by the averments in the

writ petition, the rate that is applicable is the one prevailing on 22-6-2006 and not 10-8-2006 when the document was presented for registration.

5. In view of the above, I dispose of this writ petition directing the 3rd respondent to verify the date when the parties have signed the partition deed executed by the petitioner and others and assess the stamp duty that is prevailing as on the date when they have signed the same. On such assessment if the 3rd respondent finds that the stamp duty payable has been paid by the petitioner, the document in question shall be registered without delay.

6. This shall be completed within a period of three weeks from the date of receipt of a copy of this judgment.

ANTONY DOMINIC
JUDGE

jan/-